

Donald Donat Berment,  
2016 UNC Candidate,  
Bagatelle/Blue Basin District,  
45 River Estate Circular Road,  
DIEGO MARTIN,  
Tuesday, 17 January, 2016.

My Ref: abuse/ebc/1.

Mr. Davendranath Tancoo,  
General Secretary,  
United National Congress,  
Lot 26, Southern Main Road,  
Exchange Village,  
COUVA.

Subject: Local Government Elections 2016—Abuse by the Elections & Boundaries Commission.

Dear Mr. Tancoo,

Hope the New Year brings full blessing to you, your family and the UNC.

After my meeting with the Chief Elections Officer, Mr. Ramesh Nanan, hereafter called the CEO, on Monday 16<sup>th</sup> January, at 3.30pm, in his office at Scott House, Frederick Street; I feel obliged to formally register my CLAIM of ABUSE, by the Elections & Boundaries Commission, hereafter called the EBC and its present system of operating in the field and elsewhere, most poignantly seen during the 2016 Local Government Elections period.

If on considering my FACTS and ALLEGATIONS detailed below, you form the opinion that the EBC has contravened the law and their Constitutional obligations, advertised on their website, <http://www.ebctt.com>, under the Menu “Structure of the Commission”;

quote “In accordance with Section 3 (1) of the Representation Act, hereafter called the ROP and subject to Section 71 of the Constitution, in the exercise of its function under the Constitution, the Commission shall exercise general directions and supervision over the administrative conduct of elections and enforce on the part of all Election Officers, fairness, impartiality and compliance with the Act;” unquote,

and you feel obliged to institute Court action to remedy the EBC's non compliance with the law and abusive behaviour, stopping any further occurrence, with the best method advised, be it injunctive or judicial review, I will be most willing to assist with Affidavit submission and appearance in Court, as a witness and aggrieved party by said abuse.

**FACT 1** I received my package of Election documents from Ms. Marva Carter, Returning Officer for Diamond Vale and Bagatelle/Blue Basin, on Monday, the 7<sup>th</sup> of November, 2016, at Diego Martin Regional Corporation Building, 2-3 Orchid Drive, Petit Valley, as the UNC Candidate for the Electoral District of Bagatelle/Blue Basin. Forms 3, 4 and 5 were included.

As time progressed, I realized there were no Declaration of Secrecy Forms and Appointment of Sub-agent Forms in my package and visited the Returning Officer to acquire same. 1 copy of the Declaration of Secrecy Form was given, with the advice to copy what was needed for my 17 Polling Agents, my 3 Sub-Agents, etc. Reason given, short supply by the EBC.

No advice was forwarded on the Appointment of Sub-agent Forms, as she was unaware if such a Form existed and I produced a Letter of Appointment for my 3 Sub-agents to Ms. Carter, to date me not knowing if it was published as required by law.

Problems arose on Election Day the 28<sup>th</sup> of November, when one Presiding Officer rejected the Appointment Letter of my Sub-agent Ralph Henry, putting him out of the Polling Station and he could not spend the last hour in the Station he was assigned to, reliving a Polling Agent to do the final counting of Ballots. This matter will be taken up with the CEO by a submitted letter of abuse, to his good office soon, along with other Election Day abuses recorded.

**FACT 2** The Manual of Instructions for Candidates and Election Agents, revised October 2007, given by the Returning Officer was used to supplement the information in the ROP Act and the Municipal Corporation Act 21 of 1990.

Within the Manual and the ROP Act, all references to Electoral Vehicles and Election Expenses, do not apply in respect of a Municipal Election. That is to say that all Local Government Candidates by law are not allowed to hire Electoral Vehicles and submit Election Expenses.

To be further advised on this matter, prior to the enlisting of vehicles for hire and setting up a system to collect receipts given and collected, in case they were needed, I called Ms. Nishi Ali, Acting Research Officer of the EBC on Friday 11<sup>th</sup> November 2016 at 3.30pm: 623-8320—ext 4622.

She advised that Section 39 of the ROP Act, Part IV, Election Campaign, Exception: had a misprint, in that the words "Municipal Council election" were replaced by "City or Borough" in the revised version that the EBC was using. Local Government Candidates, in the Regional Municipalities, therefore, can hire Electoral Vehicles and submit Election Expense Returns. However, Local Government Candidates in the Cities and Boroughs cannot hire Electoral Vehicles and are not required to submit Election Expense Returns.

Therein lays the paradox the EBC was faced with, allowing one Group of the same type of Candidate to do something and the other similar Group not being allowed to do same.

Ms. Ali pointed me to the ROP Act, Third Schedule, to reinforce her point that the Cities and Boroughs were not included in the reference to the number of Electoral Vehicles allowed per a quantum of the Electorate. Although, the First Schedule in the said Act, Registration Areas, had all 14 Municipalities listed.

Section 39 of the ROP Act, referred to Section 38, Sections 44 to 59 and sections 76 to 87 as not being applicable in respect of a Municipal Council Election. Both the Interpretation Section 2 of the ROP Act and the Municipal Corporations Act 21 of 1990, explain what is a "Municipality", "Municipal Council" and "Municipal Council Election."

As mentioned in FACT 1 above, the other abuses which occurred on Polling Day the 28<sup>th</sup> November 2016, will be recorded to the CEO in a separate letter and copied to your good office for additional guidance. Affidavits of those abuses can be made available on request.

**FACT 3** In light of the difference of opinion highlighted above so paradoxically, I started my preparation to submit the requested documents, 2 weeks prior to the deadline date and was ready to submit by Friday 13 November 2016, with Form 4 and Form 5 signed by the JP, dated 13<sup>th</sup> January 2016, but without the typed Appendices for collating all receipts collected.

I then called Ms. Ali and explained my predicament, seeking counsel and she advised me to bring in the Form 4 and Form 5 today, before they close and the Appendices can be submitted on Monday 16<sup>th</sup> November 2016.

In spite of my tremendous effort to comply, I reached 20 minutes late, due to traffic jams and the Office appeared close.

**FACT 4** On Monday the 16<sup>th</sup> January 2016 at 9am, I visited the 2<sup>nd</sup> Floor Administration Office of the CEO and spoke firstly with Acting Research Officer Ms. Nishi Ali. Explained what happened Friday and she said she left at 4.45pm, so I could have asked to come up. Presented my package with signed Declaration and group of Appendices, but she said that I have to see the CEO, as he is the only one to accept any late Returns, directing me to the CEO's Secretary. Then spoke to the CEO Secretary, Mrs. Yvette Carmono, explained again my case and she asked me to wait for Mr. Nanan the CEO, as he had car problems and will be late.

Then spoke to the Deputy Chief Election Officer, Ms. Lena Sahadeo, stating my matter as I knew she can act in the absence of the CEO, but she also said that I have to wait for the CEO.

Also waiting to submit documents was the PNM Candidate now Councillor Frank Lambkin, for the Morvant Electoral District, in the San Juan/Laventille Regional Corporation and he went in to see the Assistant Chief Officer Mr. Ramlakhan Jhilmit, with his documents and came out without them, so his late submission was accepted, by a party supporter in my view, although he is an Election Officer.

The Deputy came out and I asked to see the Assistant as he accepted Frank Lambkin documents. She explained that Lambkin came Friday and had to come back today with what was missing. She then asked the Assistant to see me and he was very caustic in his manner to me and I realize that Party politics was at work everywhere. He said he does not want to hear anything, refused to look at my documents and said go back outside and wait for the CEO.

**FACT 5** While waiting in the office, COP Candidate, Vishnu Pooran, for the Curepe/Pasea Electoral District, in the Regional Corporation of Tunapuna/Piarco came in with his documents to file late also and both of us waited until 12 noon to go for lunch and return later by 3pm.

**FACT 6** The CEO saw Mr. Pooran at 3.15 pm and refused his application. He saw me at 3.30pm and apologized for his lateness. On explaining my reason for late application he said he cannot accept it, that an application has to be made to the Court, according to the law. My response was that I was a retired public officer, getting a monthly pension, now taking care of my grandson, whose father was murdered and therefore function as father and grandfather, so there is no money to go before the Court.

Further, if the EBC decides to put me in Court, I will throw myself at the mercy of the Court. He said that the EBC does not have a tradition of putting people in Court, but he will publish the list of all who submitted Returns and all who did not, in 10 days hence their submission.

However, he informed me that if another party or man on the street, want to take up the matter, they will be free to do so.

I said that the advisory from the EBC, for Cities and Boroughs not to file Returns is discriminatory and not recorded in the law. His reply that there was a "lacuna" in the law as regards that, meaning that there was a missing part in the law.

Then I reported the abuse to me, by the Roving Officer of the EBC on Monday 28<sup>th</sup> in the Patna Community Centre, near closing time and a report of all the abuse, perpetrated by EBC policy in practice, during that day will be submitted to him soon, with Affidavits if so requested.

The above is a true record of my experience and if I had the money, I will apply to the Court for an injunction to stop the EBC from publishing the names of who did and who did not submit Returns by Monday of next week. That action, will add further abuse to my character, registering me as an unlawful person who committed an illegal practice, which is not so, according to the ROP Act, the law presently in force, regulating the conduct of the EBC.

Yours sincerely,

Signed..... ..... Donald Donat Berment.